

STATEMENT OF THE CASE

Sirjames Smith appeals his conviction for Strangulation, a Class D felony, following a bench trial. Smith raises a single issue for our review, namely, whether the State presented sufficient evidence to sustain his conviction.

We affirm.

FACTS AND PROCEDURAL HISTORY

On March 15, 2005, the State charged Smith with strangulation, a Class D felony; Theft, as a Class D felony; two counts of Domestic Battery, as Class A misdemeanors; and two counts of Battery, as Class A misdemeanors. Smith waived his right to a jury trial, and, on November 13, 2007, the court held a bench trial.

At the bench trial, Gayla Brown, the alleged victim, testified that she and Smith lived together and had a twenty-month-old child. Brown then testified as follows:

Q [by the State] Ms. Brown, on or about . . . February 13th, [2007,] did anything unusual happen between you and the Defendant . . . ?

A On that date, um, I wasn't home previous of when I came home that morning to get ready for work, he was upset about me being going [sic]

Q I'm sorry?

A I don't . . . really remember what all occurred on that date.

Q Okay.

A So, it's kind of a blur or whatever. All I know [is] I was getting ready for work[. . .]

Q Okay and what happened?

A [. . .] that morning. I don't really remember. All I really remember is at the time he had tried to smother me with a blanket and other than that, I mean, I don't really remember what all happened.

Q And where were you at, when you say the Defendant tried to smother you with a blanket, please tell the Court what he did.

A He took a blanket and put it over like my, the top part of my body while I was on the floor.

Q You said the top part of your body[?]

A From my waist up to my face.

Q Okay. And, um, how did that in any way effect [sic] you?

A I mean I, I couldn't really, I could breathe but it was hard for me to breathe and after like, like ten or fifteen seconds or whatever, I couldn't really breathe.

Q So, this interfered with your breathing, is that what you're telling the Court? It interfered with your breathing?

A At the time, yes.

* * *

A And after ten or fifteen seconds I could hardly breathe.

Q And then what happened after that?

A I caught my head from on the floor like up under the bed and that was it and then eventually he got up. And I don't really remember what else happened because I know I ended up leaving and I met my brother and my brother had called the police.

* * *

Q [by the defense] Okay. And you said that at one point when he was smothering you with the blanket . . . you put your head [. . .]

A Under the bed so I could breathe.

Q And he was on top of you at that time?

A No, he wasn't on top of me, the blanket was. He wasn't on me. He had put the blanket on me.

Q Where was he?

A Holding the blanket over me.

Q And what kind of blanket is it?

A Like a silk type blanket with, it's a silk blanket that has cotton on the inside of it.

Q And where did he cover you? From what part to what part?

A From the, basically top from my waist up to my head.

Q To where?

A To my head.

THE COURT: Her head.

Q Here, here, halfway?

A The top of my head.

Q Top of my head?

A Yes.

Transcript at 23-25, 43-44.

At the conclusion of the trial, the court found Smith guilty of strangulation, conversion as a lesser-included charge of theft, and a lesser-included charge of battery.¹ Following the subsequent sentencing hearing, the court sentenced Smith to 545 days, with 365 days suspended, on the strangulation conviction; to 365 days, all suspended, on the conversion conviction; and to 180 days, all suspended, on the battery conviction. The

¹ Smith only appeals his conviction for strangulation.

sentences for the strangulation and battery convictions were ordered to be served consecutively, with the sentence for the conversion conviction concurrent to the sentence for strangulation. This appeal ensued.

DISCUSSION AND DECISION

On appeal, Smith argues that the State presented insufficient evidence that he strangled Brown. When reviewing a claim of sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of the witnesses. Jones v. State, 783 N.E.2d 1132, 1139 (Ind. 2003). Rather, we look only to the probative evidence supporting the judgment and the reasonable inferences that may be drawn from that evidence to determine whether a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. Id. If there is substantial evidence of probative value to support the conviction, it will not be set aside. Id. Notably, it is well-established that “[a] conviction may be based on the uncorroborated testimony of the prosecuting witness if the testimony is sufficient to convince the trier of fact beyond a reasonable doubt.” Robinson v. State, 446 N.E.2d 1287, 1291 (Ind. 1983); see also Scott v. State, 871 N.E.2d 341, 343 (Ind. Ct. App. 2007), trans. denied.

Here, the State presented sufficient evidence to prove beyond a reasonable doubt that Smith strangled Brown. To prove strangulation, the State was required to show that Smith, “in a rude, angry, or insolent manner, knowingly or intentionally: (1) applie[d] pressure to the throat or neck of another person; or (2) obstruct[ed] the nose or mouth of the another [sic] person; in a manner that impede[d] the normal breathing . . . of the other person.” Ind. Code § 35-42-2-9 (2006). Brown testified that Smith held a blanket over

her face, smothering her and causing her to have difficulty breathing for about fifteen seconds. Although uncorroborated, that testimony is sufficient to sustain Smith's conviction. See Robinson, 446 N.E.2d at 1291. Smith's arguments to the contrary are merely requests for this court to reweigh the evidence, which we will not do. Jones, 783 N.E.2d at 1139. We must affirm Smith's conviction for strangulation.

Affirmed.

DARDEN, J., and BROWN, J., concur.